

*Case closed by [unclear]
No protest received.*

Internal Revenue Service
District Director

Department of the Treasury

P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number

Refer Reply to:

EP/EO

Date: NOV 05 1996

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(4) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,

C. Ashley Bullard
C. Ashley Bullard
District Director

Enclosures: 3

Enclosure I

Facts

Information submitted with your application indicates that you were incorporated in [REDACTED]. Your Articles of Incorporation state you are incorporated as a [REDACTED].

You state in the application that [REDACTED] (hereinafter as [REDACTED]) is a cooperative gallery that "gives artists and craftspeople a chance to sell their work in a professional gallery setting."

It was stated in a letter to the Internal Revenue Service, received on August 4, 1996, that members of the [REDACTED] are charged between \$[REDACTED] and \$[REDACTED] per month based on the number of months stated in the contract; and a [REDACTED] fee is assessed by the [REDACTED] on all sales.

Upon dissolution of the [REDACTED], you stated "assets will be divided equally among current members" after paying all debts incurred by the [REDACTED].

Law

Section 501 (c) (4) of the Internal Revenue Code provides for exemption of the federal income tax for those organizations not organized for profit and operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations states: "an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community."

Section 1.501(c)(4)-1(a)(2)(ii) of the Income Tax Regulations states an organization is not "operated primarily for the promotion of social welfare if its primary activity is "...carrying on a business with the general public in a manner similar to organizations which are operated for profit."

Application of Law

To meet the requirements in section 1.501(c)(4)-1(a)(2)(i) of the Regulations, it is necessary for an organization to establish that it is operated to promote the general welfare of the community.

Revenue Ruling 73-349, 1973-2 C.B. 179 holds that a grocery cooperative formed for the purpose of purchasing groceries for its membership at the lowest possible price is not exempt under section 501(c)(4) of the

Code because: "the organization is operated primarily for the private benefit of members and any benefits to the community are not sufficient to meet the requirement of the regulations that the organization be operated primarily for the common good and general welfare of the people of the community."

In Erie Endowment v. United States, 316 F.2d 151 (1963), the Third Circuit Court of Appeals noted the concept of social welfare as benefitting the community and not private interests.

Revenue Ruling 71-395, 1971-2 C.B. 228 holds that a gallery formed and operated by a group of 50 artists for the purpose of exhibiting and selling their works does not qualify for exemption under section 501(c)(3) of the Code because: "the cooperative gallery...is engaged in showing and selling only the works of its own members and is a vehicle for advancing their careers and promoting the sale of their work. It serves the private purposes of its members..."

On the basis of the information presented, the [redacted] is a private cooperative enterprise formed for the economic benefit of its members. What benefits there are to the community are not substantial in comparison with the benefits to the artists.

CONCLUSION

When an organization promotes social welfare as its primary activity, it is putting the interests of the community ahead of its own interests.

You are operated primarily for the benefit of your membership, and not the community. Accordingly, you do not qualify for exemption under section 501(c)(4) of the Code.

Form 6018
(Rev. August 1983)

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare In
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

Name and Address of Organization

NOV 05 1996

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)() to 501(c)(), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)(), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date

Form 6018 (Rev. 8-83)